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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR: 4322/ RAD Referral 96L-06
DATE COMPLAINT FILED: March 8, 1996
DATE OF NOTIFICATION: March 13, 1996
DATE MUR 4322 ACTIVATED: August 19, 1996

DATE RAD REFERRAL ACTIVATED:
November 21, 1996
STAFF MEMBER: Kamau Philbert

COMPLAINANT: Michael H. Chanin, Esq.

RESPONDENTS: Joseph P. Waldholtz
Enid Greene
D. Forrest Greene
Enid '94 and Enid Greene, as treasurer
Enid '96 and Enid Greene, as treasurer
KayLin Loveland
F. Richard Call
Keystone Promotions, Inc.
Shannon Scott

RELEVANT STATUTES: 2 U.S.C. § 432(b)(3)
2 U.S.C. § 434(b)
2 U.S.C. § 439a
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(3)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
2 U.S.C. § 441f
2 U.S.C. § 441g
11 C.F.R. § 104.14(d)
11 C.F.R. § 110.4(c)
11 C.F.R. § 110.10

INTERNAL REPORTS CHECKED: FEC Reports and Indices
Referral Material

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed by Michael H. Chanin, Esq., counsel for End '94 and Enid '96 committees, and by a referral from the Commission's Reports Analysis Division ("RAD").

On 11 November, 1995, Joseph P. Waldholtz, treasurer of Enid '94 and Enid '96 and the husband of former U.S. Congresswoman Enid Greene Waldholtz, fled Washington, D.C. while the Enid '94 committee was under investigation by the Federal Bureau of Investigation and the U.S. Attorney's Office for the District of Columbia. Shortly thereafter, former Representative Greene Waldholtz removed Mr. Waldholtz as treasurer, assumed the position herself, and retained the national accounting firm of Coopers & Lybrand to conduct a forensic reconstruction of the campaign records of both committees. On 8 March, 1996, Michael H. Chanin, Esq., filed a complaint with the Commission on behalf of Enid '94, Enid '96, and Enid Greene Waldholtz, as treasurer. Based on the Coopers & Lybrand analysis, the complaint alleges numerous violations of federal election laws by former treasurer Joseph Waldholtz.

Prior to filing the complaint, on 31 January, 1996, Enid Greene Waldholtz, as treasurer of both of her committees, filed 1995 Year End Reports for Enid '94 and Enid '96 and notified RAD of inaccuracies in the committees' reports. RAD was advised of the Coopers & Lybrand effort and that the committees would be filing amendments to the reports. Based on its review of the 1995 Year End Reports, RAD referred Enid '94 and Enid '96 to this Office for accepting excessive contributions from Mr. Waldholtz.

II. FACTUAL AND LEGAL ANALYSIS

A. Background¹

On 21 December, 1993, former U.S. Representative Enid Greene Waldholtz (hereinafter "Ms. Greene") filed a Statement of Candidacy for the U.S. House of Representatives for the Second District of Utah and designated Enid '94 as her principal campaign committee for the 1994 election, which was held on 8 November, 1994.² A Statement of Organization for Enid '94 was filed on 21 December, 1993 designating Mr. Waldholtz as treasurer and Custodian of Records, and KayLin Loveland as the assistant treasurer.³ Prior to that date, on 1 December, 1993, a campaign checking account for Enid '94 was established at First Security Bank in Salt Lake City, Utah. As treasurer of Enid '94, Mr. Waldholtz was the only person authorized to access the campaign account.

According to newspaper reports, fundraising initially was slow for Ms. Greene's 1994 campaign. However, beginning in July, 1994, substantial amounts of money began to appear in her campaign account under her name: nearly \$800,000 in September; \$650,000 in October and another \$270,000 in November. These funds enabled Ms. Greene to buy substantial

¹ Much of this information was garnered from various Washington Post newspaper reports.

² Ms. Greene narrowly lost to Democrat Karen Shepherd in a campaign for the same congressional seat in 1992. She spent only \$313,000 on that campaign and ended up more than \$170,000 in debt. In her 1992 public official disclosure form, Ms. Greene showed assets of \$721,000, which was used to pay off the debt.

³ Ms. Greene met Mr. Waldholtz in the Summer of 1991. In 1992, Mr. Waldholtz moved to Utah to help run Ms. Greene's unsuccessful 1992 campaign and portrayed himself as a millionaire. They were married in August 1993 in Salt Lake City, Utah. At the time, Ms. Greene said that Mr. Waldholtz gave her stocks and property worth more than \$5,000,000 as a wedding gift. In her 1994 public official disclosure form, Ms. Greene showed assets of \$4,500,000 million.

amounts of television time and send out personalized direct mailings targeting her competitors, incumbent Democrat Karen Shepherd and Independent candidate Merrill Cook. Ms. Greene won the 1994 election with 46 percent of the vote. Hers was the most expensive congressional campaign in that election cycle. In January, 1995, Ms. Greene was sworn in as a Member of Congress, and she and Mr. Waldholtz moved to Washington, D.C. Subsequently, Ms. Greene opened two separate joint checking accounts at the Wright Patman Congressional Credit Union ("Congressional Credit Union").

On 9 February, 1995, a campaign checking account was established in the name of Enid '96 ("Enid '96 Account") at First Security Bank in Salt Lake City, Utah. Mr. Waldholtz and R. Aaron Edens were the only individuals authorized to access the account. On 31 July, 1995, Mr. Waldholtz filed a Statement of Organization establishing Enid '96 as Ms. Greene's principal campaign committee for the 1996 election. Mr. Waldholtz was the designated treasurer for the committee.

In the months following the 1994 election, newspaper reports show that questions were being raised in Utah about the source of the large sums of money Ms. Greene was reported to have spent on the 1994 campaign. Media within the Salt Lake City area reportedly discovered a long trail of bounced checks, unpaid rent and angry creditors of the Waldholtzs, who offered various explanations. Eventually, when the Congressional Credit Union complained about large overdrafts on the couple's accounts, federal investigators began an inquiry into the campaign and financial activities of Mr. and Mrs. Waldholtz.

According to newspaper reports, on 11 November, 1995, Mr. Waldholtz, as treasurer of Enid '94, had promised to clear up matters regarding the questionable contributions to Enid '94

by bringing in executors of his family's trust from Pittsburgh, Pennsylvania to show that the money consisted of legal marital assets. However, when Mr. Waldholtz went to National Airport to pick up the executors, he disappeared and a warrant was subsequently issued for his arrest.

Mr. Waldholtz surrendered to federal authorities six days later on 17 November, 1995.

Ms. Greene filed for divorce on 14 November, 1995. The U.S. Attorney in Washington, D.C. initiated a formal investigation, and Mr. Waldholtz was indicted on 2 May, 1996 on 27 counts of bank fraud. He pleaded guilty to bank, election and tax fraud in the U.S. District Court in Washington, D.C. on 5 June, 1996. Ms. Greene was also granted a divorce from Mr. Waldholtz on 5 June, 1996.

Prior to the sentencing, Mr. Waldholtz had been free on bond and was cooperating with the U.S. Attorney's Office in their investigation into possible complicity by Ms. Greene. However, in September, 1996, Mr. Waldholtz admitted that while on parole he had become a heroin addict, bounced checks, and stolen credit cards from family and friends. Since that conduct violated his parole, on 26 September, 1996, Mr. Waldholtz's bond was revoked and he was sent to the D.C. jail pending his sentencing. By committing these additional crimes, Mr. Waldholtz also destroyed what little credibility he had left as a witness for prosecutors.⁴ On 30 September, 1996, the U.S. Attorney's Office issued a two-paragraph statement stating that they would not be filing any charges against Representative Greene. However, they specified that closure of their investigation did not affect the FEC's ongoing investigation of

⁴ According to the newspapers, Mr. Waldholtz already had spent time in jail in Pittsburgh for contempt of court for failing to obey an order requiring a full accounting of money he apparently had taken from his grandmother's estate.

Representative Greene's campaigns. Mr. Waldholtz was sentenced to 37 months in prison for bank, election and tax fraud on 7 November, 1996.

B. Complaint

The complaint provides a detailed account of the alleged violations by Mr. Waldholtz. First, the complaint alleges that Mr. Waldholtz knowingly and willfully made eighty excessive contributions totaling at least \$1,821,543 to Enid '94 and Enid '96. Each of the eighty contributions were over \$1,000. The contributions were concealed in several ways. Twenty-eight contributions totaling at least \$984,000 were reported in Ms. Greene's name. Eleven contributions totaling \$18,325 were made in cash and not reported to the Commission.⁵ Forty-one contributions totaling at least \$819,218 were made by transferring funds directly from personal checking accounts under Mr. Waldholtz's control into Enid '94 and Enid '96 campaign accounts. These contributions were not reported to the Commission.⁶

Second, the complaint alleges that of the 41 contributions totaling \$819,218, transferred from personal checking accounts into campaign accounts, Mr. Waldholtz knowingly and willfully commingled at least \$91,957 of those funds with his own personal funds or those of his relatives. He also failed to report the disbursements. According to the complaint, Mr. Waldholtz carried out the commingling scheme in various ways. In a series of twenty-five transactions, Mr. Waldholtz transferred a total of \$63,374 directly from Enid '94 and Enid '96 campaign accounts into personal bank accounts. For example, on 4 April, 1994, Mr. Waldholtz authorized

⁵ Of this amount, \$15,825 was contributed to Enid '94 and \$2,500 was contributed to Enid '96.

⁶ The vast majority of the contributions, \$1,752,688, were made to Enid '94. Of that amount, \$1,569,413, consisting of 56 separate contributions, were made in 1994 and \$167,450 (consisting of seven separate contributions) were made to Enid '94 in 1995. A total of \$68,850 (consisting of 17 separate contributions) were made to Enid '96 in 1996.

a wire transfer of \$4,200 from the Enid '94 account to his personal Merrill Lynch account in Pittsburgh. Similarly, on 31 March, 1994 and 25 May, 1995, respectively, Mr. Waldholtz authorized wire transfers of \$3,000 from Enid '94 account to his mother's account and \$2,000 from Enid '96 account to his grandmother's account. In addition, on four occasions, Mr. Waldholtz deposited 36 campaign contribution checks to Enid '94 totaling \$2,883 into his personal checking account. On twelve occasions, he withdrew a total of \$6,200 in cash from Enid '94 and Enid '96 by using checks made out to "Cash." On seven occasions, he withdrew a total of \$5,500 from Enid '94 and Enid '96 accounts by making checks out to himself and then either cashing them or depositing them into his personal accounts. On three occasions, he also withdrew a total of \$8,000 out of the Enid '94 and '96 accounts by writing checks payable to Ms. Greene and then depositing the checks into one of their joint personal accounts. Those checks were deposited into the Congressional Federal Credit Union account without Ms. Greene's endorsement. Finally, on two occasions, he used \$6,000 from campaign accounts to pay personal VISA credit card debt by using a debit memo to transfer \$5,000 and a \$1,000 counter check.

Third, the complaint alleges that on the 1994 April Quarterly Report, Mr. Waldholtz falsely identified as contributors forty-three (43) individuals who either do not exist or did not contribute to Enid '94. The inclusion of the "ghost contributors" caused that report to overstate the amount of contributions received by \$66,450. Mr. Waldholtz also failed to report two \$1,000 contributions to Enid '94 from two individuals and an additional eight contributions in excess of \$200. The complaint also alleges that Mr. Waldholtz accepted a \$1,000 corporate contribution

from Keystone Promotions, Inc. as an individual contribution by F. Richard Call, the owner of Keystone.

Fourth, the complaint alleges that Mr. Waldholtz may have improperly used his personal credit cards to pay for legitimate campaign expenses, but the complainants cannot provide the particulars of such transactions because they were unable to obtain appropriate records due to bank privacy laws. Therefore, the complainants request that the Commission conduct an audit of Enid '94 and Enid '96 pursuant to 2 U.S.C. § 438(b) and use its subpoena powers to obtain the personal bank records of Mr. Waldholtz and his family members. The complainants also request that the Commission seek, in any conciliation effort or enforcement proceeding, to require that Mr. Waldholtz repay Enid '94 and Enid '96 all of the committee funds that he embezzled from them and illegally commingled with personal funds. In addition, the complainants request that the Commission seek to require that Mr. Waldholtz pay an amount equivalent to the total amount that he obtained from D. Forrest Greene and subsequently contributed to the Enid '94 and Enid '96 committees. Complainants assert that they will then refund any recovered funds to Mr. Greene in accordance with 11 C.F.R. § 103.3(b)(3).

Finally, the complaint acknowledges that the money which Mr. Waldholtz used to make the contributions at issue came from D. Forrest Greene, Ms. Greene's millionaire father, who had a seat on the Pacific Coast stock exchange. At some time earlier, Mr. Greene loaned Mr. Waldholtz approximately \$4,000,000 believing that Mr. Waldholtz himself was a millionaire whose funds were temporarily unavailable. The complaint states that Mr. Greene was unaware that the funds he had loaned Mr. Waldholtz were being transferred into the Enid '94 and Enid '96 campaign accounts. According to newspapers reports, Mr. Greene has filed a lawsuit against

Mr. Waldholtz for misuse of the \$4,000,000 at issue. According to the newspapers, Mr. Waldholtz invoked the Fifth Amendment in response to Mr. Greene's charges. Based on Mr. Waldholtz's response and his failure to respond to Mr. Greene's request for summary judgment, the court entered a default judgment against Mr. Waldholtz in July, 1996. He was ordered to repay the \$4,000,000 to Mr. Greene.

In the complaint, Ms. Greene claims that she was unaware that the funds her father had loaned Mr. Waldholtz were being funneled into her campaigns. She believed that Mr. Waldholtz had given her \$5,000,000 to spend as she wished, which included spending the money on her campaign. She claims that Mr. Waldholtz told her that the \$5,000,000 wedding gift consisted of a trust fund made up mostly of real estate holdings which were tied up in litigation with other family members and, therefore, could not be quickly liquidated. When she needed money for her 1994 campaign, she asserts that her husband also told her he had inherited property in Pennsylvania worth \$2,200,000 and, as his wife, she was legally entitled to half. Moreover, Ms. Greene asserts that her father gave the couple the \$4,000,000 with the understanding that they would reimburse him from the purported trust fund. Ms. Greene asserts that she believed, due to alleged misrepresentations by Mr. Waldholtz regarding the marital assets, that she had a legal right to transfer the corresponding funds to her campaign accounts.

According to newspaper reports, however, Ms. Greene has given various explanations about the source of the \$4,000,000 and the extent of her knowledge of the violations at issue. According to those reports, Ms. Greene initially described the funds as family money and then expanded on the description of the funds to say that they came from a highly liquid account. Ms. Greene then told prosecutors that her father had swapped assets with her husband to help

generate cash. She also claimed that only after examining her campaign and personal financial affairs after Mr. Waldholtz's disappearance did she discover that Mr. Waldholtz was a fraud and that the campaign money had not come from his gift to her but had actually come from her father. She further claims that her father had secretly lent the \$4,000,000 to Mr. Waldholtz without telling her.⁷ However, the newspapers also reported that in the summer of 1994, two top campaign aides for Enid '94, Steve Taggart and KayLin Loveland, warned Ms. Greene of substantial violations of the campaign reporting laws, such as: expenditures that were not listed on the forms; personal checks used to pay campaign expenses, and other breaches of the law which require that all contributions and expenses be reported accurately. Mr. Taggart, who left the campaign as a result of these problems, described Ms. Greene as a "hands on" candidate who was heavily involved in campaign financial decisions. In any event, on 12 December, 1995, Ms. Greene held a five-hour news conference in Salt Lake City, Utah, declaring herself the unwitting victim of a con man husband who embezzled money, defrauded banks and violated federal election laws.⁸

⁷ According to an article that appeared in the 12 December, 1995 issue of The Washington Post, Ms. Greene proposed to her father that he give her money for the campaign in exchange for being assigned her interest in the property. Her father did so without seeing the property, reviewing a deed, or signing any document.

⁸ According to newspaper reports, Ms. Greene is an attorney. As a third-year law student more than a decade ago, she enrolled in a seminar on campaign finance law. One of her class topics was the right of candidates to spend an unlimited amount of their own money on their campaigns. Since then, Ms. Greene has been employed as a corporate attorney, general counsel for a corporation and deputy chief of staff to Utah Governor Norman H. Bangerter. She also was the head of the Young Republican National Federation which has approximately 150,000 members.

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The complaint alleges that Mr. Waldholtz was able to conceal the schemes discussed above, in part, by over-reporting or under-reporting the amounts he contributed in Ms. Greene's name, by reporting contributions from individuals who either did not exist or did not contribute to Ms. Greene's campaigns, and by failing to report the cash contributions and other contributions from individuals who did contribute to her campaigns. According to the complaint, Mr. Waldholtz also had access to several joint personal checking accounts with Ms. Greene in addition to the campaign accounts mentioned above. The checking accounts were opened initially either as joint accounts or were opened by Ms. Greene or Mr. Waldholtz individually, and the other was subsequently added to the accounts. Five of the bank accounts were with First Security Bank of Salt Lake City, Utah, and two of the bank accounts were with the Congressional Credit Union in Washington, D.C. The accounts generally were opened on or after 19 May, 1993 and were closed in November, 1995.⁹ Mr. Waldholtz also had access to, and control over, three additional personal banking accounts of relatives at financial institutions in his hometown, Pittsburgh, Pennsylvania. One of those bank accounts was in Mr. Waldholtz's name, the other bank account was in the name of his mother, Barbara Waldholtz, and the other bank account was in the name of his grandmother, Rebecca Levenson.

C. Response to Complaint

Mr. Waldholtz did not respond to the complaint. However, in the plea agreement with the U. S. Attorney's Office signed on 3 June, 1996, Mr. Waldholtz admitted to violations of the

⁹ One account was opened by Ms. Greene on 8 October, 1986, Mr. Waldholtz was added to the account on 29 October, 1993, and it was closed in November 1995.

Act.¹⁰ Specifically, he admitted to falsifying, signing, and filing the 1994 Year End Report for Enid '94 with the Commission. He also affirmed that in 1994, Mr. Greene deposited approximately \$2,800,000 into his and Ms. Greene's personal bank accounts and that almost \$1,800,000 of that money was transferred to Enid '94. He also admitted that he subsequently reported on various FEC Reports, including the 1994 Year End Report, that the funds were Ms. Greene's personal assets. Finally, he admitted that he included "ghost contributors" on reports filed with the Commission on behalf of the Enid '94 committee.¹¹

KayLin Loveland, former assistant treasurer of Enid '94 from 1 December, 1993 to 30 June, 1994, submitted a response to the complaint. In her response, Ms. Loveland states that she did not prepare the 1993 Year End Report or the 1994 April Quarterly Report. However, she asserts that she signed the reports at the request of Ms. Greene and Mr. Waldholtz. She states that when she signed the reports she had no knowledge of the misrepresentations contained within them, nor did she have any reason to suspect such misrepresentations. When she did have a basis to suspect that there were misrepresentations in the reports, in May and June, 1994, Ms. Loveland asserts that she advised Mr. Waldholtz of her concerns. On 14 June, 1994, after Mr. Waldholtz failed to address the matter adequately, Ms. Loveland states that she presented a memorandum to the candidate detailing her concerns. On 17 June, 1994, she had a discussion with Ms. Greene and was advised that the records had been corrected. According to Ms. Loveland, she contacted the Commission that same day to verify that the appropriate

¹⁰ Counsel provided a copy of Mr. Waldholtz's plea agreement to RAD on 17 July, 1996. A copy is attached to the RAD referral.

¹¹ It appears that the focus of the U. S. Attorney's investigation was on Ms. Greene's 1992 and 1994 campaigns.

amendments were submitted and was told that none had been filed. At that point, Ms. Loveland states that she submitted a written letter of resignation. Ms. Loveland provided copies of the memorandum and her letter of resignation with her response.

In his response to the complaint, F. Richard Call, co-owner of Keystone Promotions, Inc., admits that he made a \$1,000 contribution to Enid '94 on 1 November, 1994. However, he claims that, not knowing of the restrictions on corporate contributions, he caused the check to be issued in the name of Keystone Promotions, Inc., a Utah "S" corporation and small advertising company owned by him and his wife. Mr. Call claims that when the Committee advised him that such contributions were unlawful, he submitted a personal check to replace the company check. When the Committee failed to return the corporate check, Mr. Call states that he eventually stopped payment on the personal check. The Committee ultimately deposited the company check and reported it as an individual contribution from Mr. Call.¹²

D. RAD Referral

The referral from RAD is based upon the acceptance by Enid '96 of \$75,954 in excessive contributions from Mr. Waldholtz. The referral also noted the acceptance by Enid '94 of \$1,740,277 in excessive contributions and \$302,108 in staff advances from Mr. Waldholtz.¹³ In the referral, RAD stated that it had sent two Requests For Additional Information ("RFAs") for \$59,363 of the \$75,954 in excessive contributions to Enid '96, but it had not sent any RFAs on

¹² A copy of the check attached to the complaint showed the following handwritten notation "corporate check - to be refunded."

¹³ The RAD referral noted that Enid '94 was referred to this Office on 30 April, 1993, for failure to file 48 Hour Notices for the 1992 Primary election (RAD Referral 93L-26). That referral was closed by the Commission because of staleness on 1 August, 1994.

the remaining \$16,591 or for any of the excessive contributions to Enid '94.¹⁴ In the two RFAIs (dated 16 April and 9 May, 1996), RAD also requested that Enid '96 refund the \$75,954 excessive contributions to Mr. Waldholtz.

In addition, the referral cited Enid '94 for accepting two additional, unlawful contributions which were not specified in the complaint: a \$1,000 excessive contribution from Shannon Scott and a \$100 contribution from GBS Benefits, L.L.C.¹⁵ Based on Enid '94's amended 1994 Year End Report's Schedule A, Shannon Scott made a \$1,000 excessive contribution for the 1994 general election.

E. Law

The Federal Election Campaign Act of 1971, as amended ("the Act") requires a political committee to file periodic reports identifying each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions total more than \$200 within the calendar year, together with the date and amount of any such contribution. 2 U.S.C. § 434(b)(3)(A). The Act also requires a political committee to file periodic reports identifying the name and address of each person who has received any disbursement over \$200

¹⁴ RAD suspended its efforts to obtain additional information regarding the excessive contributions after receiving amended 1995 Year End Reports for both committees, and after the committees insisted that those amended reports reflected the committees' best efforts at rectifying the reports.

¹⁵ RAD did not send an RFAI to Enid '94 concerning these two contributions. Although the contributions were identified by the committee as part of the Coopers & Lybrand review, the committee did not specify these contributions in the complaint. GBS Benefits, L.L.C. is located in Utah. Pursuant to Utah law, GBS Benefits is a limited liability partnership and is not defined as a corporation. Therefore, this Office makes no recommendation as to a 2 U.S.C. § 441b violation by Enid '94 with regard to this contribution.

within the calendar year, together with the date and amount of any such disbursement.

2 U.S.C. § 434(b)(6)(A). The Commission's regulations at section 104.14(d) provides that each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d).

Section 441a of the Act prohibits any person from making contributions to any candidate or an authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). This provision also prohibits any individual from making contributions aggregating more than \$25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). Section 441a also provides that no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Section 441b of the Act makes it unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation to consent to any contribution or expenditure by the corporation. 2 U.S.C. § 441b(a).

The Act also provides that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall

knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f.

The Act also provides that all funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual. 2 U.S.C. § 432(b)(3).

The Act further provides that no person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office. 2 U.S.C. § 441g.

Section 439a of the Act prohibits any person from converting excess campaign funds to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office. 2 U.S.C. § 439a.

The Commission's regulations at section 110.10 provides that candidates for Federal office may make unlimited expenditures from personal funds. Personal funds include assets jointly owned with the candidate's spouse. The portion of the joint asset that shall be considered personal funds of the candidate shall be that portion which is the candidate's share by instrument(s) of conveyance or ownership. If no specific share is designated, the value of one-half of the property used shall be considered as personal funds of the candidate.

11 C.F.R. § 110.10. Finally, section 110.4(c)(2) of the Commission's regulations requires a candidate or committee to promptly return cash contributions in excess of \$100 to the contributor. 11 C.F.R. § 110.4(c)(2).

F. Discussion

The complaint clearly shows that Joseph Waldholtz engaged in numerous election law violations. In particular, the complaint shows that Mr. Waldholtz made eighty excessive contributions totaling at least \$1,821,543 to Enid '94 and Enid '96. Each of the eighty contributions were over \$1,000. The contributions were concealed in several ways. Twenty-eight contributions totaling at least \$984,000 were reported in the name of Ms. Greene. Forty-one contributions totaling at least \$819,218 were made by transferring funds directly from personal checking accounts under Mr. Waldholtz's control into Enid '94 and Enid '96 campaign accounts and were not reported to the Commission. Lastly, eleven contributions totaling \$18,325 were made in cash and also were not reported to the Commission. The complaint also shows that Mr. Waldholtz commingled committee funds with his own personal funds and/or those of his relatives, and failed to report the disbursements to the Commission. In addition, the complaint shows that on the 1994 April Quarterly Report, Mr. Waldholtz falsely identified as contributors forty-three individuals who either do not exist or did not contribute to Enid '94. Mr. Waldholtz also failed to report two \$1,000 contributions to Enid '94 from two individuals, and an additional eight contributions from individuals in excess of \$200.

The complaint and referral also show that Mr. Waldholtz accepted a \$1,000 corporate contribution from Keystone Promotions, Inc. as an individual contribution by F. Richard Call, the owner of Keystone. Finally, the complaint alleges that Mr. Waldholtz also may have improperly used his personal credit cards to pay for legitimate campaign expenses, but the complainants could not provide the particulars of such transactions because they were unable to obtain appropriate records due to bank privacy laws.

Considering that the complaint was supported by considerable documentation and a detailed analysis conducted by Coopers & Lybrand, an independent accounting firm, and that Mr. Waldholtz admitted to identical activity in his plea agreement with the U.S. Attorney's Office, this Office recommends that the Commission find reason to believe that Mr. Waldholtz knowingly and willfully violated the following provisions of the Act: 2 U.S.C. § 432(b)(3), by commingling campaign funds with personal funds;¹⁷ 2 U.S.C. § 434(b), by failing to report numerous contributions and for filing inaccurate reports; 2 U.S.C. § 441a(a)(1)(A) and (a)(3), by making contributions in excess of the \$1,000 limit per election and the overall annual \$25,000 limit; 2 U.S.C. § 441a(f), by knowingly accepting contributions and making expenditures in violation of the limitations imposed by section 441a; 2 U.S.C. § 441b(a), by accepting a \$1,000 corporate contribution from Keystone Productions, Inc.; 2 U.S.C. § 441f, by making contributions in the name of another or knowingly permitting his name to be used to effect such contributions; and 2 U.S.C. § 441g, for making cash contributions in excess of \$100.

Further, the complaint acknowledges that the \$1,800,000 used by Mr. Waldholtz to make the contributions at issue came from Mr. Greene. Almost \$1 million (\$984,000) of that money was reported to the Commission as contributions from Ms. Greene. As the candidate, Ms. Greene could contribute unlimited amounts of money to her own campaign, provided that the money constituted personal funds. 11 C.F.R. § 110.10. According to the complaint, Ms. Greene initially was unaware that funds from her father's loan to Mr. Waldholtz were being

¹⁷ Pursuant to 2 U.S.C. § 439a, a violation results when campaign funds are converted by any person to personal use. Accordingly, Mr. Waldholtz can also be charged with violating that provision. However, as the activity in question is more specifically covered by 2 U.S.C. § 432(b)(3), this Office makes no recommendation regarding a violation of section 439a by Mr. Waldholtz.

transferred to her '94 and '96 campaigns. She states that she later believed, due to misrepresentations by Mr. Waldholtz regarding her interest in a piece of property in Pennsylvania, that she had a legal right to transfer certain funds to her campaign accounts. The complaint asserts that Mr. Greene was also unaware that the money he loaned to Mr. Waldholtz would be used for Ms. Greene's campaign. In addition, Mr. Greene is reported to have asserted his innocence in his lawsuit against Mr. Waldholtz. Despite Mr. Greene and Ms. Greene's assertions, the circumstances surrounding the loan remains unclear. It is not clear when or how the loan was made, what the terms of repayment were, and who initiated the loan request (an article that appeared in The Washington Post reported that Ms. Greene proposed the loan). What is clear is that the bulk of the contributions at issue were made in the two months prior to the November, 1994 election. The complaint shows that \$460,000 was reported in September, \$742,000 in October, and \$270,000 in November of 1994. These contributions are significant considering that Ms. Greene lost her previous bid for the same congressional seat in the 1992 election ostensibly because of her lack of funds. It appears that in the 1994 election, Ms. Greene benefited significantly from the large amount of last minute contributions. Newspapers reported that she acknowledged that the contributions may have won her the election.

Considering the available information, it is questionable whether Mr. Greene would loan his son-in-law millions of dollars without some understanding of its intended use or whether Ms. Greene was unaware that the contributions reported in her name came from her father. Based on the above factors, as well as the close relationship of the three individuals: Mr. Greene, the source of the money, Mr. Waldholtz, the person who effectuated the contributions, and Ms. Greene, the recipient of the largess, this Office believes that the Commission should conduct

an investigation into this matter. Of particular concern is Ms. Greene's and/or Mr. Greene's involvement in the violations. Accordingly, this Office recommends that the Commission find reason to believe that D. Forrest Greene violated 2 U.S.C. § 441a(a)(1)(A) and (a)(3), and 2 U.S.C. § 441f, by making contributions in excess of the \$1,000 limit per election, by making contributions in excess of the overall annual \$25,000 limit, and by making contributions in the name of another. Similarly, because the contributions reported in Ms. Greene's name did not come from her personal funds, this Office recommends that the Commission find reason to believe that Enid Greene violated 2 U.S.C. § 441f. This Office also recommends that the Commission approve document and deposition subpoenas to Joseph Waldholtz, Enid Greene and D. Forrest Greene.

Finally, with respect to the complaint, this Office recommends that the Commission find reason to believe that F. Richard Call and Keystone Productions, Inc. violated 2 U.S.C. § 441b(a). However, because Mr. Call attempted to correct the violation, the amount involved is minimal and Mr. Call and Keystone are not major players in this matter, this Office recommends that the Commission take no further action regarding the violation.

In conclusion, RAD referred Enid '94 and Enid '96 for accepting over \$2 million in excessive contributions from Mr. Waldholtz. Based on the information presented in the complaint and the referral, this Office also recommends that the Commission find reason to believe that Enid '94 and Enid Greene, as treasurer, and Enid '96 and Enid Greene, as treasurer, violated the following provisions of the Act: 2 U.S.C. § 434(b), by failing to report the contributions at issue; 2 U.S.C. § 441a(f), by accepting the excessive contributions; 2 U.S.C. § 441f, by accepting contributions in the name of another; and 11 C.F.R. § 110.4(c)(2),

for failing to return cash contributions in excess of \$100. In addition, there is reason to believe that Enid '94 and Enid Greene, as treasurer, violated 2 U.S.C. § 441b(a), by accepting a \$1,000 corporate contribution.¹⁸

G. Discovery

If the Commission approves the recommendations, this Office will attempt to develop a more complete account of the loan transaction and determine whether Ms. Greene or her father, Mr. Greene, participated in the contribution scheme. In particular, we would inquire into when and/or how the loan was made, what the terms of repayment were, and who initiated the loan request.¹⁹ To accomplish that, this Office intends to issue requests for the production of documents to Joseph Waldholtz, D. Forrest Greene, and Enid Greene. This Office also intends to conduct depositions of these three individuals. This Office also plans to conduct informal discussions with Ms. Loveland and Mr. Taggart, two former campaign officials, mentioned in this report. Nevertheless, in the event that either Ms. Loveland or Mr. Taggart choose not to cooperate with the investigation, this Office also requests that the Commission approve document and deposition subpoenas to both individuals.

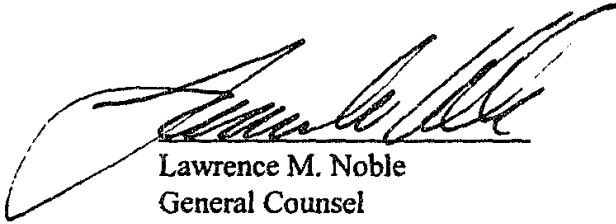
¹⁸ With respect to KayLin Loveland, the former Assistant treasurer of Enid '94, although she admitted to signing inaccurate reports, it does not appear that she participated in the activity leading up to the violations in this matter. Nevertheless, Ms. Loveland was a campaign official and may have some knowledge of the campaigns' routine activities. Therefore, this Office makes no recommendation regarding Ms. Loveland at this time.

¹⁹ At this time, this Office does not recommend issuance of subpoenas for personal bank records of Mr. Waldholtz and his family members as requested by complainant.

III. RECOMMENDATIONS

1. Open a MUR in RAD Referral 96L-06.
2. Find reason to believe that Joseph Waldholtz knowingly and willfully violated 2 U.S.C. § 432(b)(3), 2 U.S.C. § 434(b), 2 U.S.C. §§ 441a(a)(1)(A) and (a)(3), 2 U.S.C. § 441a(f), 2 U.S.C. § 441b(a), 2 U.S.C. § 441f, and 2 U.S.C. § 441g.
3. Find reason to believe that D. Forrest Greene violated 2 U.S.C. § 441a(a)(1)(A) and (a)(3), and 2 U.S.C. § 441f.
4. Find reason to believe that Enid Greene violated 2 U.S.C. § 441f.
5. Find reason to believe that F. Richard Call and Keystone Productions, Inc. violated 2 U.S.C. § 441b(a), but take no further action and close the file as to these respondents.
6. Find reason to believe that Enid '96 and Enid Greene, as treasurer, violated 2 U.S.C. § 434(b), 2 U.S.C. § 441a(f), 2 U.S.C. § 441f, and 11 C.F.R. § 110.4(c)(2).
7. Find reason to believe that Enid '94 and Enid Greene, as treasurer, violated 2 U.S.C. § 434(b), 2 U.S.C. § 441a(f), 2 U.S.C. § 441b(a), 2 U.S.C. § 441f, and 11 C.F.R. § 110.4(c)(2).
8. Approve the attached proposed Factual and Legal Analyses.
9. Approve the attached deposition and document subpoenas to Joseph Waldholtz, Enid Greene, D. Forrest Greene, KayLin Loveland, and Steve Taggart.
10. Approve the appropriate letters.

5/22/97
Date


Lawrence M. Noble
General Counsel

Attachments:


1. Factual and Legal Analyses
2. Subpoenas



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA DAVIS 
COMMISSION SECRETARY

DATE: MAY 29, 1997

SUBJECT: MUR 4322 and RAD Referral #96L-06 - First General Counsel's
dated May 22, 1997.

The above-captioned document was circulated to the Commission
on Friday, May 23, 1997.

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	—
Commissioner McDonald	—
Commissioner McGarry	—
Commissioner Thomas	—

This matter will be placed on the meeting agenda for
Tuesday, June 10, 1997.

Please notify us who will represent your Division before the Commission on this
matter.